



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 417, 422, 423, 455, and 460

[CMS-4201-CN2]

RIN 0938-AU96

Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors that appeared in the final rule published in the **Federal Register** on April 12, 2023 entitled “Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly.”

DATES: This correcting document is effective June 5, 2023.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2023-07115 of April 12, 2023 (88 FR 22120), there were a few technical errors that are identified and corrected in this correcting document. The provisions in this correction document are effective as if they had been included in the document published April 12, 2023. Accordingly, the corrections are effective June 5, 2023.

II. Summary of Errors in the Regulations Text

On pages 22332 and 22338, we made technical errors in the regulations text amendatory

instructions for §§422.164 and 423.186.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule in accordance with section 1871(b)(1) of the Social Security Act (the Act) and 5 U.S.C. section 553(b) of the Administrative Procedure Act (APA). In particular, section 1871 of the Act requires a minimum 60 day period for public comment. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Per APA sections 553(b)(B) and (d)(3) and section 1871(b)(2)(C) and (e)(1)(B)(ii) of the Act, there procedures can be waived if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

We believe that this final rule correcting document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This document merely corrects typographical and technical errors in the final rule, but it does not make substantive changes to the policies or the implementing regulations that were adopted in the final rule. As a result, this final rule correcting document is intended to ensure that the information in the final rule accurately reflects the policies and regulatory amendments adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the minor corrections in this document into the final rule or delaying the effective date would be unnecessary, as we are not altering our policies or regulatory changes, but rather, we are simply

implementing correctly the policies and regulatory changes that we previously proposed, requested comment on, and subsequently finalized. This final rule correcting document is intended solely to ensure that the final rule accurately reflects these policies and regulatory changes. Furthermore, such notice and comment procedures would be contrary to the public interest because it is in the public's interest to ensure that the final rule accurately reflects our policies and regulatory changes. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

Correction of Errors

In FR Doc. 2023-07115 of April 12, 2023 (88 FR 22120), make the following corrections:

§ 422.166 [Corrected]

1. On page 22332, in the third column, in § 422.166, in amendatory instruction 17c, line 1, the phrase "Revising paragraphs (g)(1), (i)(3)(iv)" is corrected to read "Revising paragraphs (g)(1) introductory text, (i)(3)(iv)".

§ 423.186 [Corrected]

2. On page 22338, in the first column, in §423.186, in amendatory instruction 40c, line 1, the phrase "Revising paragraphs (g)(1), (i)(7)(i)" is corrected to read "Revising paragraphs (g)(1) introductory text, (i)(7)(i)".

Elizabeth J. Gramling,

Executive Secretary to the Department,

Department of Health and Human Services.

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